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# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Salt Lake Field Office  
2370 South 2300 West  
Salt Lake City, Utah 84119

RECEIVED

JUL 21 2000

DIVISION OF  
OIL, GAS AND MINING

5/00 3/020

JUL 20 2000

### DECISION

Mr. Gary Mullard	:	43 CFR 3809
Northern Stone Supply	:	Surface Management
P.O. Box 249	:	Notice of Noncompliance
Oakley, Idaho 83346	:	

Notice of Noncompliance for Mining Common Variety Minerals from the  
Turquoise No. 2 and No. 3 Millsites, for Excavating Common Variety Minerals and Constructing a  
Staging Area south of the Mill Sites, for excavating Common Variety Minerals from the Rock Canyon  
Access Road, and for Failure to Move Fence and Gate onto Northern Stone's Mining Area as Required  
in Plan of Operations Approval

On March 31, 1993, this office approved your Plan of Operations to conduct mining and milling activities on your Turquoise Stone Placer mining claim (UMC 132860) and Turquoise Stone mill sites No. 2 and 3 (UMC 132861 and 347333-347334) located in T. 13 N., R. 13 W., Section 18. Your Plan of Operations was approved for a combined surface disturbance of 7.417 acres. A portion of that acreage was for an airfield runway covering a surface area of 0.918 acres. On September 22, 1994, your proposal to construct the runway was withdrawn, thereby reducing the total acreage to 6.50 acres.

In your Plan approval, at Item 7, you were required to move and realign the locked gate and fence located south of your mining claims so that only acreage necessary for mining was excluded from multiple-use. On April 8, 1993, you appealed the Bureau of Land Management's (BLM) decision to the Utah State Office. In that appeal, you disagreed with BLM's decision that you should move the gate and fence. On October 21, 1993, the Utah State Office issued a decision, remanding the casefile back to the Salt Lake District Office so that the Environmental Assessment (EA) for your proposed mining operation could be amended to address certain deficiencies in your Plan. One of the items that needed to be further addressed in the EA was the location of the subject fence. On November 22, 1993, you appealed the Utah State Office decision to the Interior Board of Land Appeals (IBLA). On September 22, 1994, the Salt Lake District Office agreed to "further consultations on, and to remedy if necessary (at "B"): new location of the fence and entry gate to the facility on the south side of the property." On September 30,

1996, you withdrew your appeal to the IBLA. No additional consultations have been made between Northern Stone and the Salt Lake District Office since that time. It is now time to resolve this issue.

A recent inspection of the Turquoise Stone mining claim area revealed that the locked gate and fence have not been moved from the Rock Canyon access road and are posted with a sign which states "Absolutely No Trespassing or Hunting." This language conveys to the public the impression that the lands are privately owned, which they are not. The gate is currently located several hundred feet south of any of your mining claims or mill sites. In 1996, the BLM established regulations at 43 CFR 3715 which are intended to manage the use and occupancy of the Public Lands for the development of locatable mineral deposits by limiting such use or occupancy to that which is reasonably incident. For example, the placement of gates, permanent structures, and occupancy on a mining claim must be authorized under regulations at 43 CFR 3715. Northern Stones' use and occupancy of the Turquoise Stone mining claims and mill sites must comply with these regulations. We have enclosed a copy of these regulations for your use.

During a recent inspection of your Turquoise Stone claim area, there was evidence of recent excavation and mining of common variety quartzite boulders and cobbles from an area along the main access route, about 500 feet south of Northern Stone's locked gate, fence and mining claims. This excavation occurred in two locations, separated by the main Rock Canyon access road. The disturbance on the east of the road includes an area about 0.02 acres in size, while the disturbance on the west side of the road includes an area about 0.08 acres for a total unauthorized surface disturbance of 0.10 acres. In addition, there was an unknown quantity of landscape rock removed from this area without any authorization or permit from the BLM.

A follow-up inspection of your Turquoise Stone claim and mill site areas revealed that you have recently excavated quartzite boulders and cobbles from the surface of both the Turquoise No. 2 and 3 mill sites without authorization from the BLM. It appears that Northern Stone has now disturbed almost the entire surface of both mill sites, which cover a combined surface area of 9.7 acres. This inspection also revealed that you have been stockpiling and removing landscape rock from the area south of your Turquoise No. 3 mill site. This is evident because the corners marking the southern boundary of the Turquoise No. 3 mill site are monumented under Mineral Survey 1798. It appears that you have excavated quartzite landscape boulders and cobbles from at least 20 separate areas south of the mill sites where small pits are now located, and from surface exposures. Each of the pits is approximately 4 feet long by 4 feet wide and vary in depth from one to two feet. At this same location, you have scraped and bladed an unauthorized staging and rock-stacking area about 250 feet long by about 300 feet wide, covering a surface area approximately 1.72 acres in size. At this location, several hundred tons of quartzite boulders of all sizes have been dumped onto the ground, apparently being prepared for removal from the site. We estimate that the surface area now disturbed by your mining, milling, and unauthorized mining activities is approximately 15.5 acres. This includes 3.099 acres for roads, 0.884 acres for quarries, 9.7 acres for milling and 1.82 acres for unauthorized mining and milling activities.

Northern Stone's unauthorized surface disturbance associated with mining and stockpiling common variety mineral materials from the Turquoise Stone claim and mill site areas, and for maintaining a locked gate across Public Lands, has resulted in unnecessary and undue degradation of Public Lands for which

you are hereby being issued a Notice of Noncompliance.

All operators who have established a Record of Noncompliance are required to submit a Plan of Operations and must post a bond for 100% of the cost for reclamation, including administrative costs, for any and all future mining or milling operations on Public Land.

In order to bring Northern Stone into compliance with Federal regulations, within 30 days of receipt of this letter, you must do the following:

1. Remove the locked gate that bars access to Rock Canyon. If the gate has not been removed by Northern Stone within the 30-day time period, the BLM may undertake its removal;
2. Submit an official request for the placement of the fence and gate or any permanent structures located on your mining claim and/or mill sites under BLM's Use and Occupancy regulations at 43 CFR 3715;
3. Cease all stockpiling and excavation of common variety quartzite boulders from the areas along the Rock Canyon access road;
4. Cease all stockpiling and excavation of common variety quartzite boulders from your Turquoise Stone mining claim and mill sites;
5. Cease all stockpiling and excavation of common variety quartzite boulders from the area south of your Turquoise Stone mill sites;
6. All of the common variety quartzite boulders that were excavated from the area south of your Turquoise Stone mill sites, and any quartzite boulders brought into this area from off-site must be picked up and moved to a separate stockpile to be located on the Turquoise No. 3 mill site. After this material has been moved to the stockpile, BLM will estimate the total tonnage of mineral materials severed from Public Lands so that an estimate of trespass damages can be made.
7. After the quartzite boulders have been moved and stockpiled on the Turquoise No. 3 mill site, all of the disturbed areas south of the mill site must be ripped, scarified and prepared for revegetation during the fall of 2000.

Because Northern Stone has been conducting unauthorized mining and stockpiling activities within the boundaries of the Turquoise No. 2 and 3 mill sites, within 90 days of receipt of this letter, Northern Stone must hire a registered surveyor to prepare an accurate map of all of the surface disturbance within the boundaries of these millsites so that an exact measure of surface disturbance can be made and an appropriate bond calculation can be prepared. This survey should include all of the existing facilities within the mill sites, including temporary and permanent structures, worker housing, pit toilets, concrete and metal ore bins, scale, stockpiling and loading areas, conveyor locations, etc.

Northern Stone must revegetate all of the reclaimed surface disturbance during the fall of 2000 with live

native seed. The areas to be revegetated include the two small sites along the Rock Canyon access road (0.10 acres) and the area south of the Turquoise No. 3 mill site (1.72 acres). The optimum time for revegetating the disturbed areas is between October 15 and November 30. The BLM will prepare a recommended seed list, with the concurrence of the Utah Division of Oil, Gas and Mining, for your use.

An appeal from this decision may be taken to the State Director, Utah State Office, BLM, in accordance with the provisions in Title 43 of the Code of Federal Regulations (CFR) Subpart 3809.4. If an appeal is taken, the notice of appeal must be filed in this office at 2370 South, 2300 West, Salt Lake City, Utah, 84119 within thirty (30) days from receipt of this decision.

Do not send the notice of appeal to the State Director. The appeal and the case history will be sent to the State Director from this office. The appeal to the State Director must contain: 1) the name and mailing address of the appellant; 2) when applicable, the name of the mining claim(s) and serial number(s) assigned to the mining claim(s) recorded pursuant to Section 3833 of this title which are subject to appeal; and 3) a statement of reasons for appeal and any arguments the appellant wishes to present which would justify reversal or modification of the decision. To avoid summary dismissal of the appeal, there must be strict compliance with the regulations.

During the appeal to the State Director, all decisions from which the appeal is taken shall be effective during the pendency of the appeal.

If no appeal is taken, this decision constitutes final administrative action of this Department, as it affects the subject mining claims. No appeal, protest, or petition for reconsideration will be entertained from this decision after the appeal period has expired.

If you have any questions, or require additional information, please feel free to contact Michael Ford of my staff at (801) 977-4360.

Sincerely,

**GLENN A. CARPENTER**

Glenn A. Carpenter  
Field Office Manager

Enclosure

cc: D. Wayne Hedberg  
Utah Division of Oil, Gas and Mining  
1594 West North Temple, Suite 1210  
Box 145801  
Salt Lake City, UT 84114-5801

Utah State Office (UT-935)